

DC. CHIEF AT CHICKEN TRIAL.

Sturgis in a Rage Threatens to Dismiss the Fire Chief's Counsel from the Room for "Undue Levity."

DELANEY UTTERS DEFIANCE.

Mr. Whitman the Cause of the Up-
roar, Ridicule Having Been Cast
Upon Him for Attempts to Im-
peach His Own Witness.

After a row that threatened to result in an exchange of blows at the beginning of the fourth week of the trial of Fire Chief Edward F. Crocker today, Augustus Lewit, associated with John J. Delaney as counsel for the Fire Chief, was ordered out of the trial room by Commissioner Sturgis for refusing to apologize to Assistant Corporation Counsel Whitman.

The trouble arose while Daniel Mahoney, Chief Engineer of the Park Avenue Hotel at the time of the fire, was on the witness stand.

Assistant Corporation Counsel Whitman was cross-examining Mahoney in an effort to impeach his testimony, although the witness had been made a witness for the prosecution when recalled earlier in the day. The effort of counsel to impeach his own witness caused those in the court to smile. Mr. Lewit was one of those unable to control his mirth. Mr. Whitman became angrier and angrier and finally, in a burst of wrath, he exclaimed:

"Mr. Commissioner, I trust that you will suppress this levity in this court-room. I object to counsel for the other side laughing and giggling every time I put a question to this witness."

Mr. Delaney was on his feet in a moment and asked to whom Mr. Whitman was alluding.

"I am alluding to your associate, Mr. Lewit."

The Commissioner here broke in, saying that he, too, had noticed the "undue levity" of associate counsel and that in the future he desired it suppressed.

"I don't know," said Mr. Delaney, "all the gentlemen in back of me are twenty-one or over and I presume know when it is proper to smile or not."

Mr. Whitman's Rage.

In a moment Mr. Whitman was on his feet, with face almost purple with rage. He screamed at counsel:

"I'm not going to have a boy make a fool of himself in this court-room or any other, if I can help it."

"Then you must change your tactics and manner of cross-examination," said counsel.

Mr. Lewit, who up to this time had remained seated, here arose and, pointing his finger at Mr. Whitman, said:

"Mr. Whitman, if I didn't know more law than you did and more about conducting a case I would—and the rest of Mr. Lewit's words were drowned by the rapping of the gavel in the hands of Commissioner Sturgis, who had arisen and was facing counsel for the defense.

Lewit had resumed his seat.

"Mr. Lewit arise—stand up," said the Commissioner. "What is your name?"

"My name is Augustus Lewit," said counsel.

"I object to this," said Mr. Delaney.

"Mr. Delaney, sit down," shouted the Commissioner, using his gavel vigorously.

"But I won't sit down," insisted Mr. Delaney. "This is my case and I assume all the responsibility. This man is my associate and he has done nothing that I can see but what is perfectly proper. Mr. Whitman made himself liable to this and"—

"Sit down," Mr. Delaney, shouted Mr. Sturgis. "I am presenting my remarks to Mr. Lewit and the Commissioner rules that he must either leave this room or apologize to counsel."

"If he does so," said Mr. Delaney, "I would be greatly surprised. It would be unmanly on his part to do so."

Mr. Lewit here interrupted, saying that he, Mr. Whitman, had laid himself open and given license to him (Lewit) to make that remark by his reference to him as a "boy."

The Commissioner insisted upon an apology and directed Mr. Lewit to make it or leave the room.

Blows Seemed Imminent.

The excitement in the trial room was at fever heat. Counsel for both sides and the Commissioner stood as close together as they possibly could, with only a narrow table intervening. For a time it looked as though blows would be struck, but finally oil was poured on the troubled waters by Mr. Delaney announcing that if he were privileged to get his objection over, he would allow his associate to act as he thought proper.

Mr. Lewit announced that he could not find himself justified in apologizing to counsel and would therefore withdraw.

William H. Ogden, of the New York Board of Fire Underwriters, and Chairman of the committee having charge of the fire trial, was the first witness called by the defense.

"What do you think of Chief Crocker's capacity as a fire-fighter?" asked counsel.

Assistant Corporation Counsel Whitman, for the prosecution, claimed on the ground that the question was immaterial. Commissioner Sturgis sustained counsel's objection, and as Mr. Delaney had no further questions, the witness was excused.

Sturgis Talks with Crocker.

The persons present at the trial this morning before the Recorder's Court were much astonished at seeing Mr. Sturgis approach the Chief and at hearing him say:

"Well, Chief, you had a pretty hard fight on your hands down at the Mills Building last night, didn't you?"

Yes, Mr. Commissioner, it was a tough fight, and we had to drag the hose up ten flights of stairs," answered Crocker.

Foreman Love Is Acquitted.

Foreman Edward Love, of No. 2 Section, Street-Cleaning Department, was acquitted before Recorder Crocker on the charge of having received a bribe of \$50 from two drivers accused of causing a collision in return for securing the defense, proved guilty. Love was not in a position to answer.

HAUD ORGAN A BAD MUSIC TEST

Walter Damrosch on the Witness Stand Testifies That Such Music Is No Indication of Popularity of Selections.

HERBERT ON THE STAND.

He Admits That Some of His Jingles Resemble Other Musical Themes, but Declares That the Charge of Plagiarism Entirely Unsupported.

Hisses from friends of Victor Herbert in Justice Trux's court this afternoon resented the imputation of Attorney Gilbert Hawes that a composer who writes comic operas for Frank Daniels and leads a brass band down the street is not capable of high-class composition.

Mr. Hawes was making the opening argument for the defense in the damage suit brought by Victor Herbert against the Musical Courier Company, which will go to the jury to-day.

The attorney was trying to convince the jury that Herbert, by inspiration, could not have composed music on a plane with Beethoven's Ninth symphony.

"I say," asserted Hawes, "that a man who writes comic operas for Frank Daniels to tumble about in and leads a brass band down the street cannot be capable of the classic music of the masters. To be this, he must of necessity live in a more elevated atmosphere."

For a moment imagine Walter Damrosch writing a comic opera or leading a brass band down Broadway?

Here hisses interrupted and a recess was taken for lunch.

Mr. Damrosch, earlier in the session, was exceedingly complimentary to Mr. Herbert.

Head Organ Not a Criterion.

He flatly refuted the statement of Defendant Blumenberg that proof of the success of a composer's music rests with whether hand-organs play his compositions.

"A hand organ is not the test of the popularity of a composer's music," emphatically asserted Mr. Damrosch.

To combat the claim of the defense that there is no similarity in the works of the great masters, Attorney Palmer brought statements from Mr. Damrosch that any number of such cases existed.

He cited specific instances where themes in the works of Mendelssohn, Beethoven, Verdi, Schumann, Mozart, Wagner and other composers resembled one another.

"Singing Girl" Original.

Mr. Damrosch, dealing in musical terms which sounded oddly in the colorless confines of the court-room, defended the originality of "The Singing Girl," declared in the defense that what William C. Carl had testified that the introduction of "The Wizard of the Nile" did not contain the theme of Beethoven's Ninth Symphony—that, to the contrary, it was the very reverse.

"The introduction to 'The Wizard of the Nile,'" said Mr. Damrosch, "was very cleverly written to put the audience in the Eastern atmosphere that was to be disclosed with the rising of the curtain."

"Wizard of the Nile" No Steal.

Mr. Damrosch contended that the real theme of the Beethoven symphony does not begin until after the sixteenth bar, thus denying the charge that "The Wizard of the Nile" introduction was a steal from the opening bars of the symphony.

The witness insisted there was not the slightest basis for the charge of plagiarism in this connection.

"Do you know of any of the great masters having written works to order?" asked Attorney Palmer, with a significant glance at "Mark" Blumenberg, who had testified that such a thing had never been done.

"Yes," answered Mr. Damrosch. "The two last great works of Mozart were written at the order of the manager of a little theatre in a suburb of Vienna. Mozart's great 'Requiem' was written at the order of an Austrian nobleman."

Victor Herbert on the Stand.

That a lot of classical music has been written which Victor Herbert is in ignorance of was the conclusion to be drawn from the testimony of the composer and bandmaster, who was the next witness.

"I never saw the work and never heard the music," was Herbert's answer to nearly every question as to whether certain of his compositions were copied from other works.

In two instances Mr. Herbert admitted there was slight resemblance, but his attitude was always a I-didn't know.

Attorney Hummel did not cross-examine Herbert, and the plaintiff has failed to make a case against him, having admitted members of the fair sex present in interested survey of him.

Julian Edwards could see nothing in the musical exhibits of the case to warrant the charge of plagiarism made by Mr. Blumenberg.

He Could Read Music.

After Mr. Edwards had testified to writing comic operas and more serious works, Attorney Palmer, handing the witness a sheet of music, asked:

"What do you think of this?"

"W-what?" said Edwards in surprise.

"I say, you read music?"

"I know a few notes," declared Edwards, "but I don't know a composer should read music sort of thing."

Henry Hadley, recalled, was asked by Attorney Palmer:

"You have composed some comic operas?"

"Yes, I have composed some comic operas which have never seen the light," replied Mr. Hadley with a deprecatory smile.

The court adjourned at the close of the summing up and Justice Trux will charge the jury to-morrow.

FOURTH AVENUE PLAZA.

Resolution for the Improvement Approved by the Mayor.

Work on the projected Fourth avenue plaza, between Eighth and Ninth streets, a matter which was fought vigorously by the Board of Aldermen, was approved to-day by the Mayor.

The resolution, which provides for the establishment of a station of the underground railroad at that point.

MISS MARY STONE'S WEDDING STIRS WASHINGTON SOCIETY.

She Has Been Belle in Society Since She Made Her Debut Two Years Ago.



MISS MARY FRANCIS STONE.

WASHINGTON, Oct. 27.—One of the most brilliant weddings of the autumn will take place to-day at St. Margaret's Episcopal Church, when Miss Mary Francis Stone will become the wife of Milton de Roy Gough, of this city.

Miss Stone is the only daughter of Charles Allston Stone, formerly of Erie, Pa., who is Andrew Carnegie's Washington representative, and for many years was an officer in the United States Navy. She is one of the most attractive young women in Washington society.

Her attachment to Mr. Gough antedates her entrance into society, and has been one of the pretty romances to which the smart set.

Mr. Gough belongs to an old Washington family, and is considered one of the promising young lawyers of that city.

Rev. Herbert Scott Smith will perform the wedding ceremony. Eugene Gough will be his brother's best man. After a wedding journey South, Mr. and Mrs. Gough will reside at the Marlborough, this city.

VICTIM'S SPINE SHOWN IN COURT

Gruesome Exhibit Mute Evidence in the Trial of Duncan Young, Charged with George Eberhard's Murder.

DUG UP FROM THE GRAVE.

Part of the spinal column of George Eberhard, who was shot and killed on Jan. 24, 1899, was exhibited to the jury which is sitting in the case of Duncan Young, on trial for his life before Justice Foster, in General Sessions to-day.

It was dug up from the grave on Saturday afternoon by two assistant district attorneys and produced in court to prove what caused the death of Eberhard.

Young was convicted of Eberhard's murder, but on the appeal to the higher court the decision was reversed and the case sent back for trial on the ground that the prosecution had failed to prove the cause of death.

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PORT UPSETS; COSTS A LIFE. FOR HER LOVER

Two Companions Try to Save a Fisherman Who Could Not Swim, and They Narrowly Escape His Fate.

MANAGE TO REACH A REEF.

Emil Noska, of No. 47 East Seventy-second street, was drowned yesterday, despite the efforts of two companions to save him.

In order to preserve their own lives the other men were compelled to abandon him and swim for shore, which they reached in an exhausted condition.

Noska, with Charles Strass, of No. 335 East Seventy-first street, and John Slavak, of No. 47 East Seventy-second street, went to New Rochelle yesterday and engaged a rowboat. They rowed out to a point off Pea Island, where they began to fish.

There was a stiff wind on the water and the men were changing places in the small boat the men called in Noska, who was unable to swim, called to his companions to help him.

They did the best they could, but, weighted down with heavy clothing and "strapped" very strong at the waist, they were powerless to save him. When he had disappeared for the third time from the boat, they turned overboard and swam for shore.

They reached a reef from which they were rescued by persons who had seen the accident from New Rochelle.

The body of Noska has not been recovered.

Slavak, who had his ankle broken in his struggle to reach shore, was seen at his home to-day as an Evening World reporter. He tells the following story of the drowning of Noska:

"A big wave turned the boat over. Strass had his feet tangled in the fishing line and was unable to get out. By the time I had him free Noska was in a bad way. I think he was struck by the waves and he turned over, because he didn't seem to know how to help himself."

"Strass and I couldn't get to Noska. The breakers were so high. Finally we saw that we would have to swim for it to save our own lives, and we managed to reach the reef. In landing my ankle was broken when I was thrown on the rocks."

"I didn't know I had a broken ankle and I had to get off my clothes to go out and help Noska, but he had disappeared. We were picked up by a fisherman, who took us to Pea Island, where we lit a fire and dried our clothes. Later on we got a steam launch and dragged his body, but were unable to find it."

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BAN ON DEALERS HAS BEEN RAISED

White Plains Health Officer Declares Quimby Family Better; Quimby Quarantine, and Christian Scientists Rejoice.

DISTRICT-ATTORNEY ACTS.

(Special to The Evening World.)

WHITE PLAINS, N. Y., Oct. 27.—Mrs. John Quimby, her son and daughter, the Christian Scientists who were declared suffering from malignant diphtheria a few days ago, were pronounced quite cured by Health Officer Birch to-day and the quarantine on the Quimby house was raised.

This statement was a surprise to the village, as it was supposed the three were still in a bad way and that there was danger of an epidemic of diphtheria. There was additional concern, as it was stated that Mrs. Henry Reynolds, an aged woman, who lives on Sawmill road, was also under the care of the healers.

Dr. Birch made no wonder of the sudden announcement, he simply stating that he had gone to the Quimby house and, finding the mother and children out of danger, fumigated the house and raised the quarantine.

John Quimby hastened off to work and on the way spread the news among the Christian Scientists, and the Healers flocked to the Quimby house and found Mrs. Quimby up and ready to receive them.

The throng came and went and the rejoicing was great. Even some of the curious neighbors ventured into the house.

Mrs. Quimby, discussing her case, said that she had implicit faith in her religion.

She had Healer Rath make a two-hour call daily. She believes that he has succeeded in curing herself and her son and daughter of the disease and says it proves that Christian Science is a sure cure for all ailments when the body, as she calls it, is overcome.

"I believe in Christian Science," she told Dr. Birch, "and I would not forsake my belief for a fortune. I am all right now and feel fine."

Dr. Birch says that the disease ran its course and simply died out without any serious effects.

The Christian Scientists say they do not fear prosecution now.

Curled up as public sentiment and the demand of certain physicians and Grand Jury men for a quick disposition of the Christian